

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

Hon. Hugh B. Scott

03CR62A

Order

JOSEPH DETTELIS,

Defendant.

Before the Court are defendant's numerous motions for various relief, mostly related to his detention (Docket No. 91 (motion to dismiss indictment for false imprisonment)); his request to discharge standby counsel¹ (Docket Nos. 98, 99); his motion for extension of time to conclude discovery as of the date of his release from detention (Docket No. 85); and the government's response seeking an order precluding further defense motions (Docket No. 100)². Pending before Chief Judge Arcara are defendant's objections to the Order (Docket No. 68; see also Docket Nos. 71, 72, 73, 77, 82, 86, 90, 94) denying release from custody and denying reconsideration of detention (Docket No. 86). Defendant then filed numerous motions seeking release on bail while his objection to the detention was pending before Chief Judge Arcara (Docket Nos. 90, 91, 94). The Chief Judge initially scheduled argument of the objections for April 1, 2005, and then

¹John Humann also wrote to the Court requesting to be relieved as standby counsel.

²The government's response to defendant's motion to dismiss, Docket No. 93, contains an exhibit in which defendant seeks to move for a bill of particulars, Ex. A; Docket No. 74. It was included with a motion to extend the time to file objections to this Court's order, hence the undersigned did not address that motion when filed. See Docket No. 81.

April 5, 2005 (text Notices of Oral Argument, Mar. 23, 30, 2005). Defendant filed objections to an adjournment by Chief Judge Arcara of the argument of the objections (Docket No. 98), and submitted to the undersigned a Notice of Appeal (Docket No. 101) to the United States Court of Appeals for the Second Circuit from the Chief Judge's not rendering a timely decision on defendant's motion for bail. Chief Judge Arcara ultimately scheduled argument for and held on April 22, 2005 (text Notice of Oral Argument, Apr. 15, 2005), granting defendant bail of \$100,000 and other conditions (Docket No. 103, April 25, 2005). That order addressed several pending motions for release on bail or reexamination of his pretrial detention (Docket Nos. 71, 72, 73, 77, 82, 86, 90, 94).

Defendant has tied his remaining motion to dismiss the indictment for false imprisonment to his continued pretrial detention, arguing that the detention is unconstitutional and in violation of provisions of the Bail Reform Act, 18 U.S.C. § 3142 (Docket No. 91). The Chief Judge's decision has resolved the detention issue (see Docket No. 103). Therefore, defendant's motion to dismiss (Docket No. 91) **is denied as moot**.

Argument was held before the undersigned on April 13, 2005, on the remaining motions, defendant's request to discharge standby counsel (Docket Nos. 98, 99) and pretrial scheduling issues (Docket Nos. 85, 100). From the bench, the request to discharge standby counsel John Humann was **denied** at that time. See McKaskle v. Wiggins, 465 U.S. 168, 181-85, 177 & n.7 (1984); United States v. Mills, 895 F.2d 897, 904 (2d Cir.) (defendant need not be given choice of standby counsel), cert. denied, 495 U.S. 951 (1990). The Court reserved decision on the other motions before this Court.

As for the schedule for the balance of this case, defendant moves for extension of discovery in this case (Docket No. 85). Defendant (either through counsel or to himself as pro se) have been given opportunities to conduct open file discovery, including the government furnishing copies of documents that defendant has at least reviewed and had opportunities to obtain. Defendant argued that his detention hindered him from conducting discovery. With his release on bail, defendant will be given time to complete that discovery as well as to make any motions relative to the merits of the case. Defendant's motion for an extension of time to complete discovery (Docket No. 85) is **granted in part**; defendant shall have until **June 10, 2005**, to complete discovery. Pretrial motions are due by **July 11, 2005**, responses are due by **August 12, 2005**, and argument of motions shall be on **August 15, 2005, at 10 am**, before the Hon. Hugh B. Scott. This will be the final scheduling Order issued by the Court and no further extensions will be granted. The government's motion to preclude defendant from making further motions (Docket No. 100) is **denied**.

So Ordered.

s/HBS
Hon. Hugh B. Scott
United States Magistrate Judge

Dated: Buffalo, New York
April 26, 2005